

Appl. No. 10/606,909  
Response to Office action of October 20, 2005  
Page 5

### **REMARKS**

In accordance with the forgoing, claim 39 has been amended and claim 42 has been canceled without prejudice or disclaimer of the subject matter contained therein. Claims 39-41 and 43-45 are pending an under consideration.

#### **I. Allowable Subject Matter**

Claim 42 stands objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 1 has been amended to include the limitations of claim 42 and claim 42 has been canceled without prejudice or disclaimer of the subject matter contained therein. Accordingly, allowance of independent claim 39 and claims 41 and 43-45 dependent thereon is respectfully requested.

#### **II. Claim Rejections – 35 USC § 102**

Claim 40 stands rejected under 35 U.S.C. 102(b) as being anticipated by Vachon (U.S. Pat. No. 5,531,780).

Claim 40 is directed to the embodiment of Figs. 9-13 and recites a means for stabilizing the tubular member relative to body tissue. The office action contends that Vachon includes a means for stabilizing, which is identified as helical electrode 82. The rejection of claims having the stabilizing means limitation based on Vachon is in error in that it fails to apply a proper analysis under 35 U.S.C. 112, paragraph 6, for means-plus-function claim limitations. As held in In re Donaldson, 16 F.3d 1189 (Fed. Cir. 1994), the PTO is required to interpret means-plus-function clauses to cover only the disclosed structure and equivalents.

The structure linked to the stabilizing function is that shown in Fig. 9 as flanges 216 and 218, which are frustoconical members that clamp together to provide the stabilization. The helical electrode 82 of Vachon is not an equivalent

Appl. No. 10/606,909  
Response to Office action of October 20, 2005  
Page 6

structure. Moreover, the office action response to Applicants' arguments fails to address the issue.

Further, claim 40 recites a fluid delivery catheter. Vachon is characterized as having a fluid delivery catheter identified as item 186. However, as clearly identified in Vachon, item 186 is a syringe, not a catheter. See, e.g., col. 9, lines 6-22.

For the reasons stated, Claim 40 is patentably distinguishable from Vachon. Accordingly, withdrawal of the rejection is respectfully requested.

## **II. Drawings**

The drawings are objected to because in Fig. 10 the reference 232 points to inner tube 210 and reference 226 is not pointing to an outward projection. Applicants respectfully disagree. In Fig. 10, both the inner and outer tubes are appropriately shown with the described outwardly directed projections of the inner tube and the described inwardly directed projections of the outer tube, which nest together.

As to Fig. 11, Applicants are submitting a new replacement drawing sheet to properly show reference 210 and 232. Also, reference 234 has been deleted. Accordingly, withdrawal of the objections is respectfully requested.

Appl. No. 10/606,909

Response to Office action of October 20, 2005

Page 7

**III. Conclusion**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

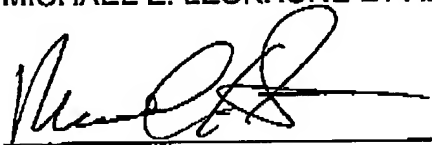
Finally, if there are any formal matters remaining after this Amendment, the Examiner is requested to telephone the undersigned attorney to attend to those matters.

Respectfully submitted,

MICHAEL E. LECKRONE ET AL.

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Date



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